

105TH CONGRESS  
2D SESSION

# H. R. 3853

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IN THE SENATE OF THE UNITED STATES

JUNE 24, 1998

Received; read twice and referred to the Committee on Small Business

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## AN ACT

To promote drug-free workplace programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Drug-Free Workplace  
5       Act of 1998”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) 74 percent of adults who use illegal drugs  
4 are employed;

5 (2) small business concerns employ over 50 per-  
6 cent of the Nation’s workforce;

7 (3) in over 88 percent of families with children  
8 under the age of 18, at least 1 parent is employed;  
9 and

10 (4) employees who use and abuse addictive sub-  
11 stances increase costs for businesses and risk the  
12 health and safety of all employees because—

13 (A) absenteeism is 66 percent higher  
14 among drug users than nondrug users;

15 (B) health benefit utilization is 300  
16 percent higher among drug users than  
17 nondrug users;

18 (C) 47 percent of workplace accidents  
19 are drug-related;

20 (D) disciplinary actions are 90 per-  
21 cent higher among drug users than  
22 nondrug users; and

23 (E) employee turnover is significantly  
24 higher among drug users than nondrug  
25 users.

26 (b) PURPOSES.—The purposes of this Act are to—

1           (1) educate small business concerns about the  
2           advantages of a drug-free workplace;

3           (2) provide financial incentives and technical  
4           assistance to enable small business concerns to cre-  
5           ate a drug-free workplace; and

6           (3) assist working parents in keeping their chil-  
7           dren drug-free.

8   **SEC. 3. SENSE OF THE CONGRESS.**

9           It is the sense of the Congress that—

10          (1) businesses should adopt drug-free workplace  
11          programs; and

12          (2) States should consider incentives to encour-  
13          age businesses to adopt drug-free workplace pro-  
14          grams. Financial incentives may include—

15                (A) a reduction in workers' compensation  
16                premiums;

17                (B) a reduction in unemployment insur-  
18                ance premiums; and

19                (C) tax deductions in an amount equal to  
20                the amount of expenditures for employee assist-  
21                ance programs, treatment, or drug testing.

22          Other incentives may include adoption of liability  
23          limitation as recommended by the President's Com-  
24          mission on Model State Drug Laws.

1 **SEC. 4. DRUG-FREE WORKPLACE DEMONSTRATION PRO-**  
2 **GRAM.**

3 The Small Business Act (15 U.S.C. 636 et seq.) is  
4 amended by—

5 (1) redesignating sections 31 and 32 as sections  
6 32 and 33, respectively; and

7 (2) inserting the following new section:

8 **“SEC. 31. DRUG-FREE WORKPLACE DEMONSTRATION PRO-**  
9 **GRAM.**

10 “(a) ESTABLISHMENT.—There is established a drug-  
11 free workplace demonstration program, under which the  
12 Administration may make grants, cooperative agreements,  
13 or contracts to eligible intermediaries for the purpose of  
14 providing financial and technical assistance to small busi-  
15 ness concerns seeking to start a drug-free workplace pro-  
16 gram.

17 “(b) ELIGIBILITY FOR PARTICIPATION.—An inter-  
18 mediary shall be eligible to receive a grant, cooperative  
19 agreement, or contract under subsection (a) if it meets  
20 the following criteria:

21 “(1) It is an organization described in section  
22 501(c)(3) or 501(c)(6) of the Internal Revenue Code  
23 of 1986 that is exempt from tax under section 5(a)  
24 of such Act, a program of such organization, or pro-  
25 vides services to such organization.

1           “(2) Its purpose is to develop comprehensive  
2       drug-free workplace programs or to supply drug-free  
3       workplace services, or provide other forms of assist-  
4       ance and services to small businesses.

5           “(3) It has at least 2 years of experience in  
6       drug-free workplace programs or in providing assist-  
7       ance and services to small business concerns.

8           “(4) It has a drug-free workplace policy in ef-  
9       fect.

10       “(c) REQUIREMENTS FOR PROGRAM.—Any drug-free  
11   workplace program developed as a result of this section  
12   shall include—

13           “(1) a written policy, including a clear state-  
14       ment of expectations for workplace behavior, prohibi-  
15       tions against substances in the workplace, and the  
16       consequences of violating such expectations and pro-  
17       hibitions;

18           “(2) training for at least 2 hours for employees;

19           “(3) additional training for employees who are  
20       parents;

21           “(4) employee drug testing by a drug testing  
22       laboratory certified by the Substance Abuse and  
23       Mental Health Services Administration, or approved  
24       by the Department of Health and Human Services  
25       under the Clinical Laboratories Improvements Act of

1       1967 (42 U.S.C. 263a), or the College of American  
2       Pathologists, and each positive result shall be re-  
3       viewed by a Licensed Medical Review Officer;

4               “(5) employee access to an employee assistance  
5       program, including assessment, referral, and short-  
6       term problem resolution; and

7               “(6) continuing alcohol and drug abuse preven-  
8       tion program.

9       “(d) EVALUATION AND COORDINATION.—The Small  
10      Business Administrator, in coordination with the Sec-  
11      retary of Labor, the Secretary of Health and Human Serv-  
12      ices, and the Director of the Office of National Drug Con-  
13      trol Policy, shall evaluate drug-free workplace programs  
14      established as a result of this section and shall submit a  
15      report of findings to the Congress not later than 1 year  
16      after the date of the enactment of this section.

17       “(e) ELIGIBLE INTERMEDIARY.—Any eligible inter-  
18      mediary shall be located in a state, the District of Colum-  
19      bia, or the territories.

20       “(f) DEFINITION OF EMPLOYEE.—For purposes of  
21      this section, the term ‘employee’ includes—

22               “(1) supervisors;

23               “(2) managers;

24               “(3) officers active in management of the busi-  
25      ness; and

1           “(4) owners active in management of the busi-  
2           ness.

3           “(g) CONSTRUCTION.—Nothing in this section shall  
4 be construed to require an employer who attends a pro-  
5 gram offered by an intermediary to contract for any serv-  
6 ices offered as part of a drug-free workplace program.

7           “(h) AUTHORIZATION.—There are authorized to be  
8 appropriated to carry out the provisions of this section,  
9 \$10,000,000 for fiscal year 1999 and such sums may re-  
10 main available until expended.”.

11 **SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.**

12           Section 21(c)(3) of the Small Business Act (15  
13 U.S.C. 648(c)(3)) is amended—

14           (1) in subparagraph (R) by striking “and”;

15           (2) in subparagraph (S) by striking the period  
16 and inserting “; and”; and

17           (3) by inserting after subparagraph (S) the fol-  
18 lowing new subparagraph:

19           “(T) providing information and assistance to  
20 small business concerns with respect to developing  
21 drug-free workplace programs.”.

22 **SEC. 6. CONTRACT AUTHORITY.**

23           The Small Business Administrator may contract with  
24 and compensate government and private agencies or per-

1 sons for services related to carrying out the provisions of  
 2 this Act.

3 **SEC. 7. COLLECTION OF DATA AND STUDY.**

4 (a) COLLECTION AND STUDY.—The Small Business  
 5 Administrator shall collect data and conduct a study on—

6 (1) drug use in the workplace among employees  
 7 of small business concerns;

8 (2) costs to small business concerns associated  
 9 with illegal drug use by employees; and

10 (3) a need for assistance in the small business  
 11 community to develop drug prevention programs.

12 (b) REPORT.—Not later than 6 months after the date  
 13 of the enactment of this Act, the Small Business Adminis-  
 14 trator shall submit a report containing findings and con-  
 15 clusions of the study to the chairmen and ranking mem-  
 16 bers of the Small Business Committees of the House and  
 17 Senate.

Passed the House of Representatives June 23, 1998.

Attest:

ROBIN H. CARLE,

*Clerk.*